



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
OILDALE MUTUAL WATER COMPANY)

For Appellant: Merle H. Jenkins
Attorney at Law

For Respondent: Bruce W. Walker
 Chief Counsel

Paul J. Petrozzi
Counsel

O P I N I O N

This appeal is made pursuant to section 25667 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Oildale Mutual Water Company against proposed assessments of additional franchise tax and penalty in the total amounts of **\$1,129.00** and **\$3,998.00** for the income years ended February 28, 1973, and February 28, 1975, respectively, and against proposed assessments of additional franchise tax in the amounts of **\$2,233.00** and **\$4,805.00** for the income years ended February 28, 1974, and February 29, 1976, respectively.

Appeal of Oildale Mutual Water Company

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for the repair, construction, and expansion of appellant's water facilities is irrelevant. The source of the earnings, and not what the earnings are to be used for, is what is determinative in the application of section 24405. (Appeal of Woodland Production Credit Association, supra; see also Woodland Production Credit Association v. Franchise Tax Board, supra; Appeal of Unity Credit Union, supra; Appeal of Mid-Cities Schools Credit Union, supra.)

Appellant has expressed doubt with respect to whether, as a water company meeting the restrictive provisions of sections 330.24 et seq. of the Civil Code, it comes within the purview of section 24405 of the Revenue and Taxation Code. No authority **has been** cited in support of this theory and we have found none. Absent such authority, it seems clear that section 24405 is applicable to appellant.

For the reasons set out above, we conclude that respondent's action in this matter must be sustained.

O R D E R

Fursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 25667 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of **Oildale** Mutual Water Company against proposed assessments of additional franchise tax and penalty in the total amounts of **\$1,129.00** and **\$3,998.00** for the income years ended February 28, 1973, and February 28, 1975, respectively, and against proposed assessments of additional franchise tax in the amounts of **\$2,233.00** and **\$4,805.00** for the **income years** ended February 28, 1974, and February 29, 1976, respectively, be and the same is hereby sustained.

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In the Matter of the **Appeal** of)
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OILDALE MUTUAL WATER COMPANY)

ORDER DENYING PETITION FOR REHEARING

Upon consideration of the petition filed September 17, 1979, by Merle H. Jenkins, Attorney for the **Oildale** Mutual Water Company for rehearing of their appeal from the action of the Franchise Tax Board, we are of the opinion that none of the grounds set forth in the petition constitute cause for the granting thereof **and**, accordingly, it is hereby ordered that the petition be and the same is hereby denied and that our order of August 16, 1979, be and the same is hereby affirmed.

Done at Sacramento, California, this 25th day of September, 1979, by the State Board of Equalization.

William L. Bennett Chairman

Paul C. ... Member

Ernest ... Member

... Member

... Member

ATTEST: *Gordon P. Adelman*, Acting Executive Secretary